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Attorney for Plaintiff, Sheila Nkem

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION**

Sheila Nkem,

Plaintiff,

v.

Kilolo Kijakazi, Acting Commissioner of  
Social Security,

Defendant.

Case No. 1:20-cv-00416-EPG

**STIPULATION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES AND  
EXPENSES PURSUANT TO THE EQUAL  
ACCESS TO JUSTICE ACT; ORDER  
GRANTING STIPULATION AND DENYING  
MOTION FOR ATTORNEY FEES AS MOOT**

(ECF Nos. 30, 32)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of EIGHT THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$8,500.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

1 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that  
2 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses  
3 and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any  
4 payments made shall be delivered to Plaintiff's counsel, Jonathan O. Peña.

5 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney  
6 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or  
7 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any  
8 and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA  
9 attorney fees in connection with this action.

10 This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social  
11 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the  
12 EAJA.

13 Respectfully submitted,

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15 Dated: July 22, 2022

/s/ Jonathan O. Peña  
JONATHAN O. PEÑA  
Attorney for Plaintiff

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18 Dated: July 22, 2022

PHILLIP A. TALBERT  
United States Attorney  
PETER K. THOMPSON  
Acting Regional Chief Counsel, Region IX  
Social Security Administration

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21 By: \* Daniel P. Talbert  
22 Daniel P. Talbert  
23 Special Assistant U.S. Attorney  
24 Attorneys for Defendant  
25 (\*Permission to use electronic signature  
26 obtained via email on July 22, 2022).  
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**ORDER**

Based upon the parties' stipulation (ECF No. 32), IT IS HEREBY ORDERED that attorney fees and expenses in the amount of \$8,500.00 are awarded pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, subject to the terms of the stipulation.

Additionally, in light of the stipulation, Plaintiff's counsel's motion (ECF No. 30) for attorney fees and expenses pursuant to 28 U.S.C. § 2412 is DENIED as moot.

IT IS SO ORDERED.

Dated: July 25, 2022

/s/ Eric P. Grogan  
UNITED STATES MAGISTRATE JUDGE